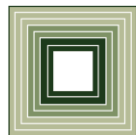


Joint Appropriations Subcommittee on Justice and Public Safety



Office of Indigent Defense Services

March 21, 2019



FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

JPS - IDS

Indigent Defense Services (IDS)

Funds defense attorneys for indigent defendants

Thomas Maher, Director of IDS

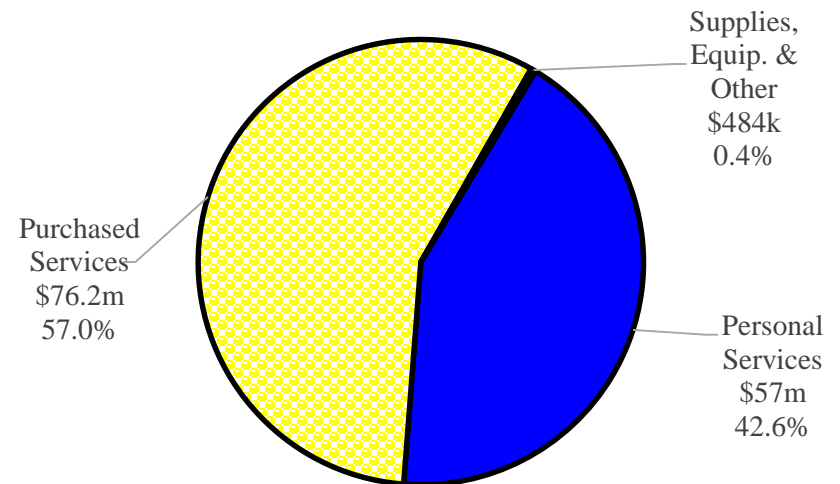
Includes:

- Public Defender offices
- Private Assigned Counsel Fund

Total General Fund Budget: \$133.7 million

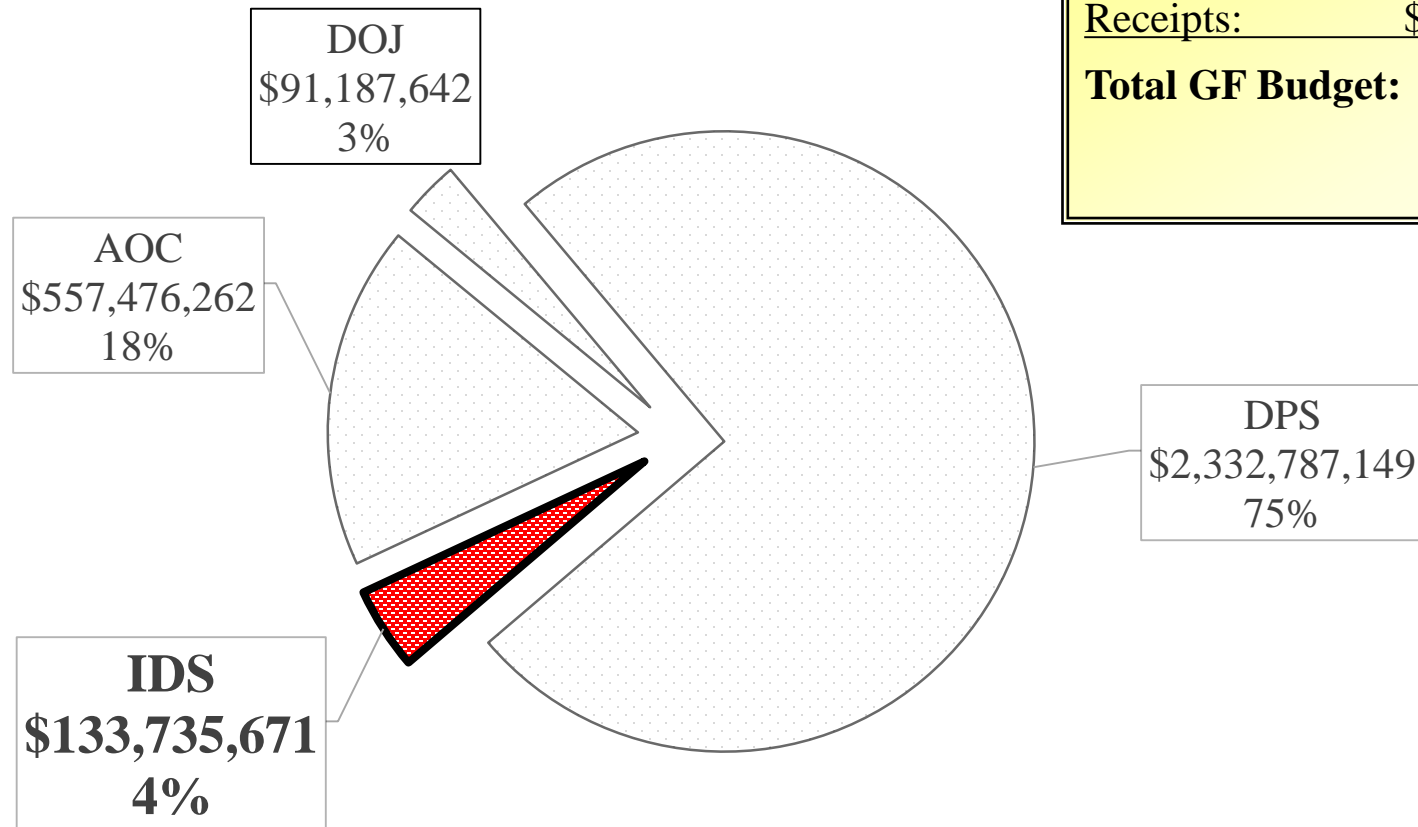
Total FTE Positions: 553.0

**IDS Total General Fund Base Budget
FY 2019-20**



Source: Source: Recommended Base Budget (Worksheet I) 02/16/19

JPS General Fund Base Budget by Agency FY 2019-20

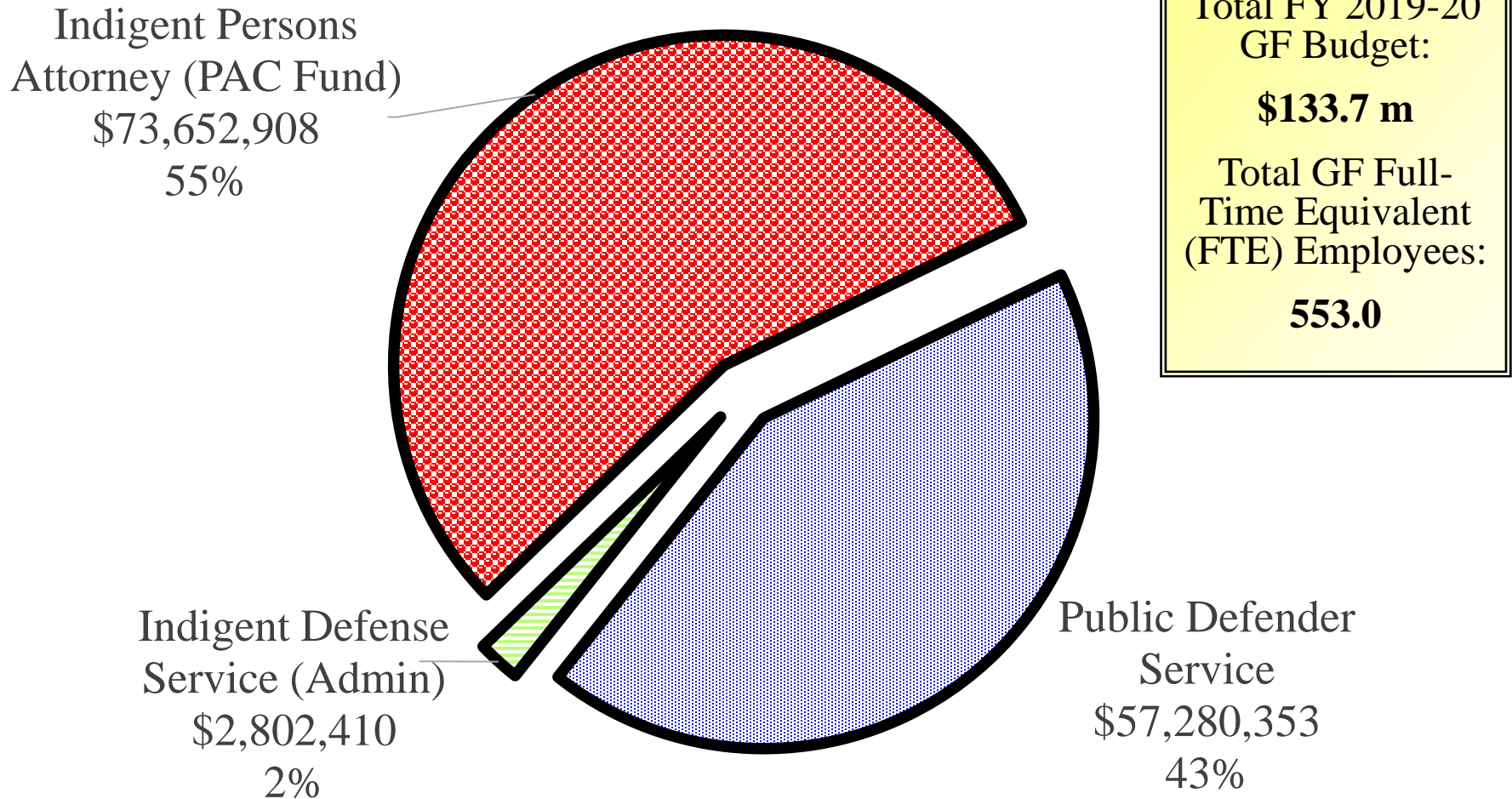


Appropriation: \$2.8 billion
Receipts: \$310 million
Total GF Budget: \$3.1 billion

Source: Recommended Base Budget (Worksheet I) 02/16/19

FY 2019-20 IDS Base Budget

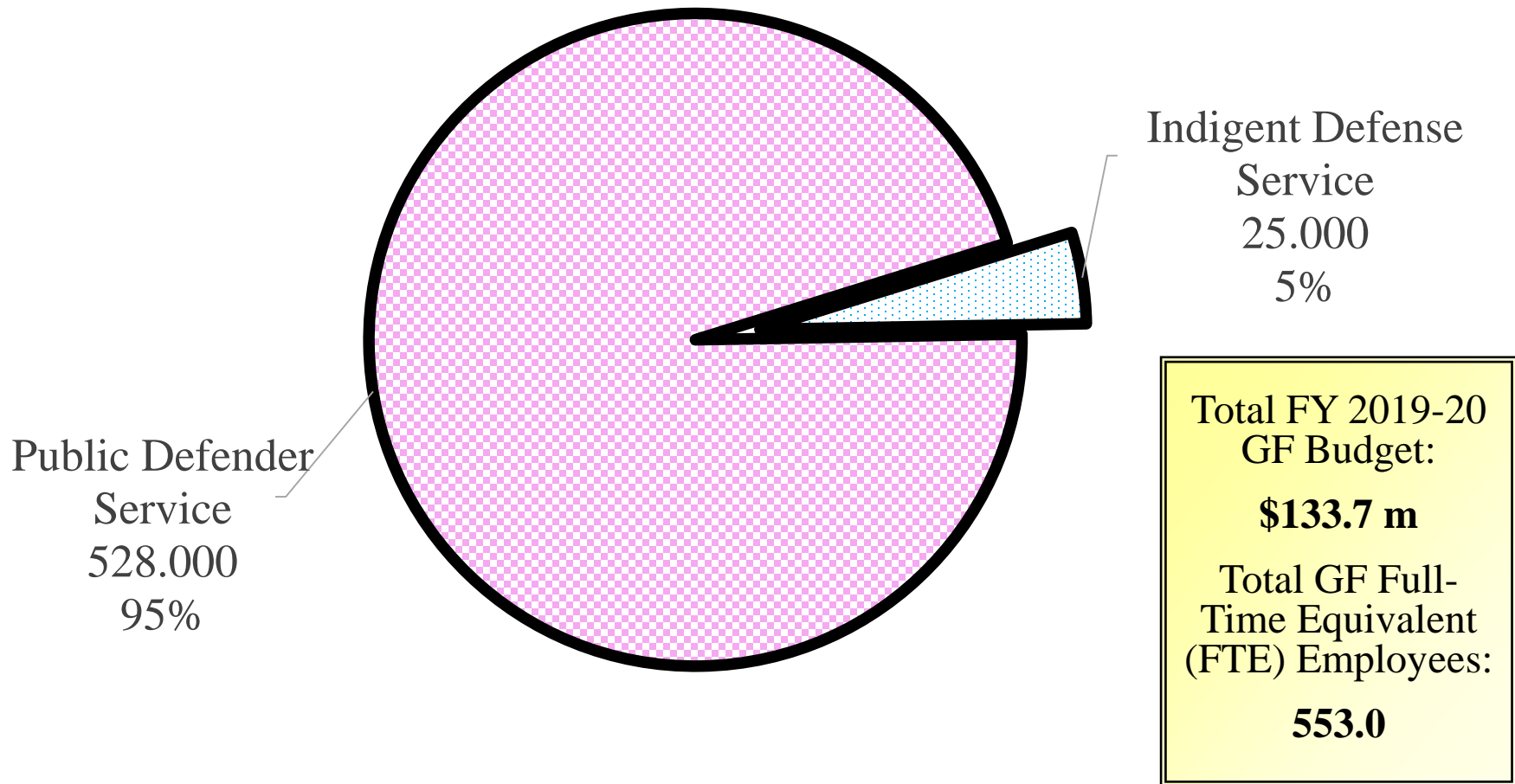
Total Requirements by Fund



Source: Recommended Base Budget (Worksheet I) 02/16/19

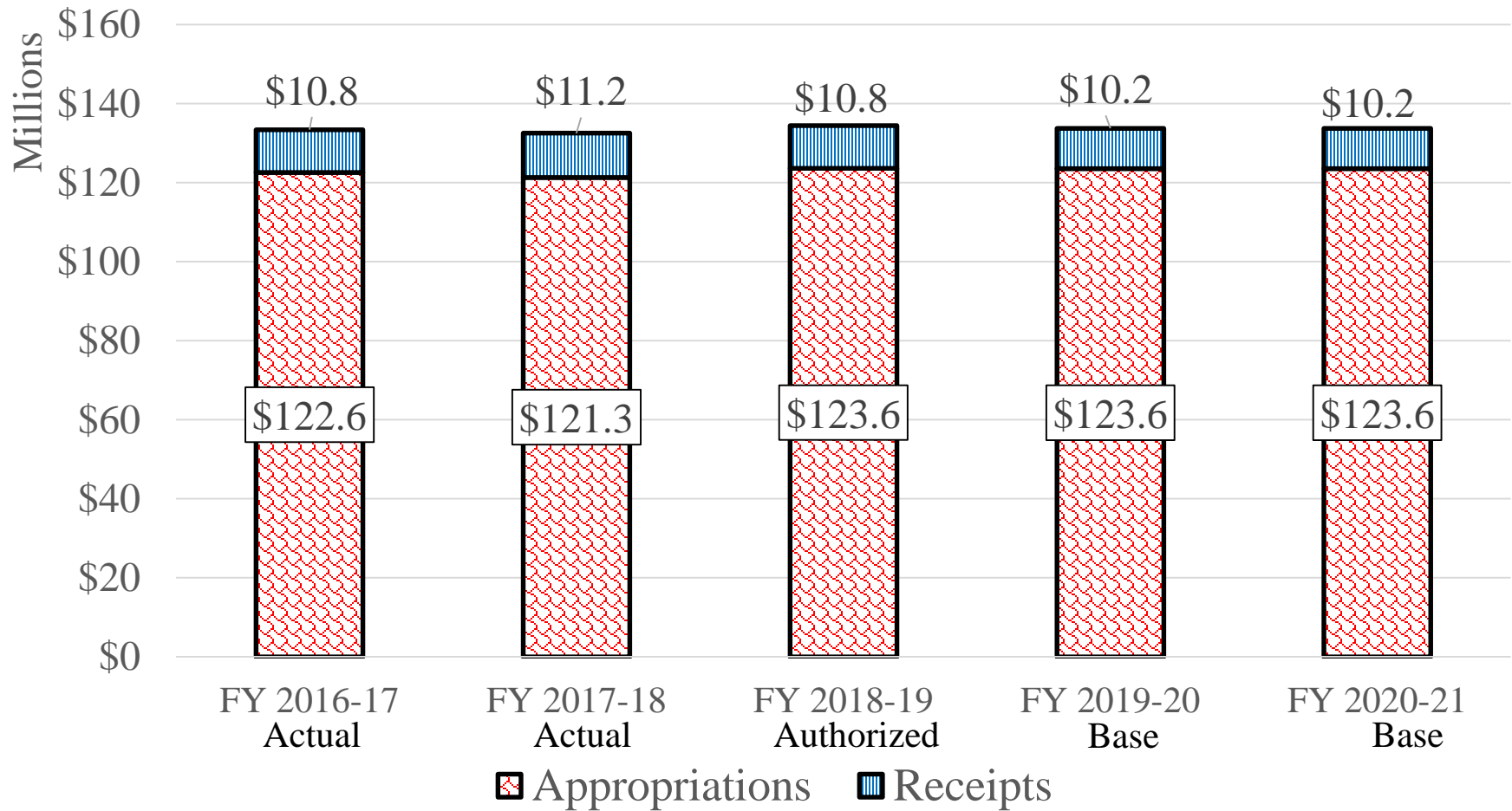
FY 2019-20 IDS Base Budget

Total FTE by Fund



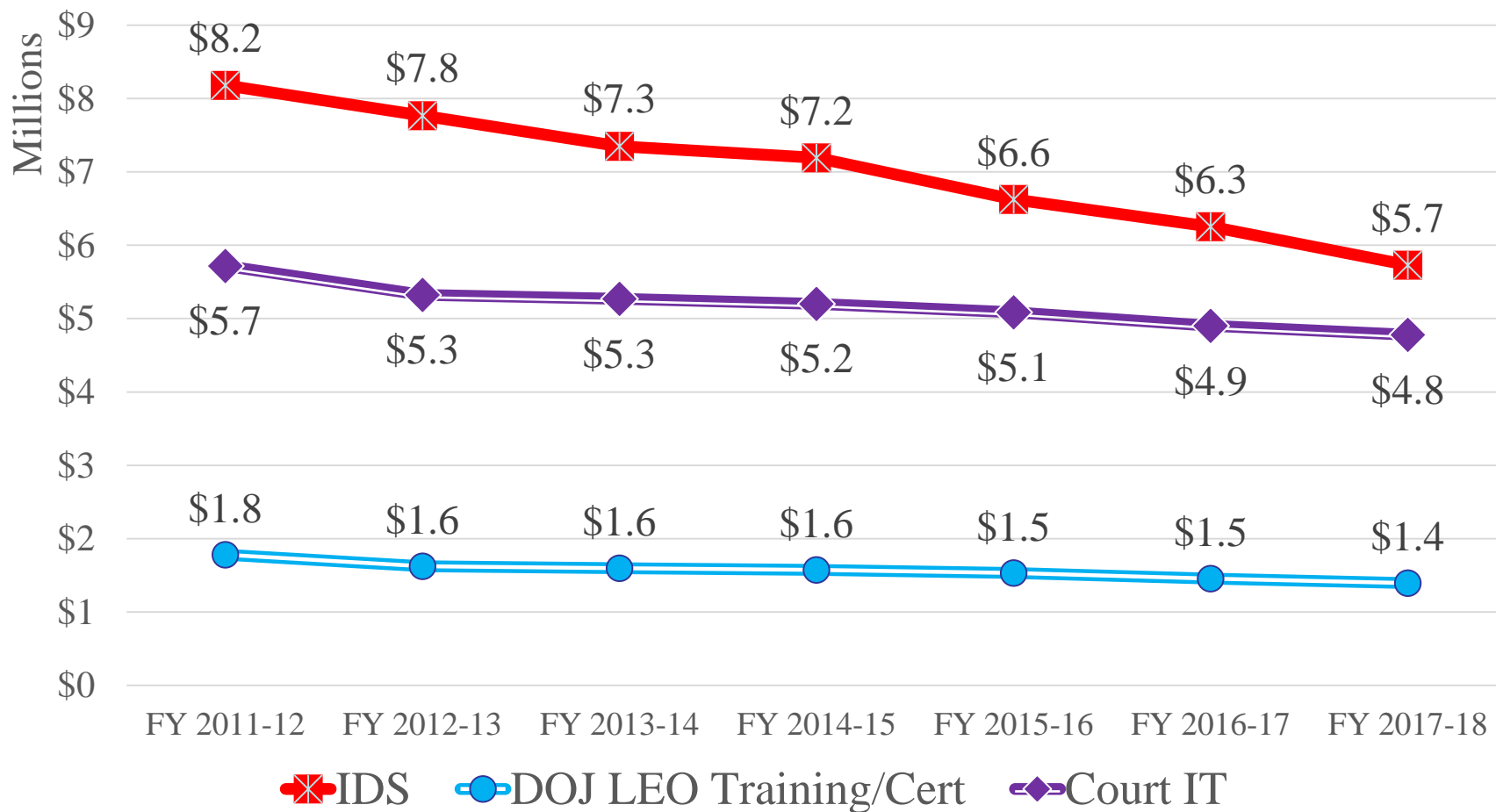
Source: Recommended Base Budget (Worksheet I) 02/16/19

IDS Budget History



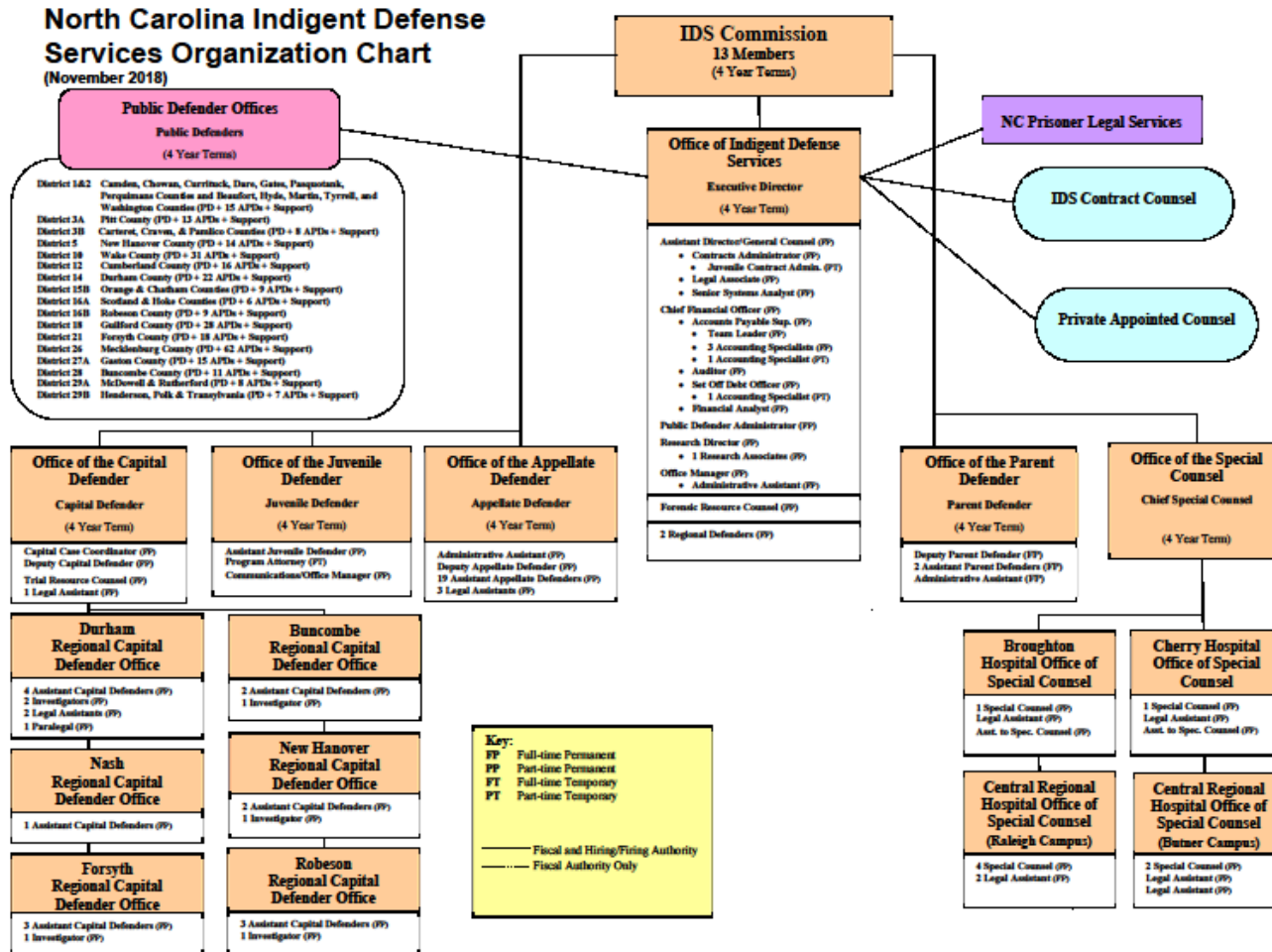
Source: NCAS, Recommended Base Budget (Worksheet I) 02/16/19

AOC Disbursements to Certain JPS Recipients



Source: AOC

IDS Organization



Source: IDS

IDS Administration

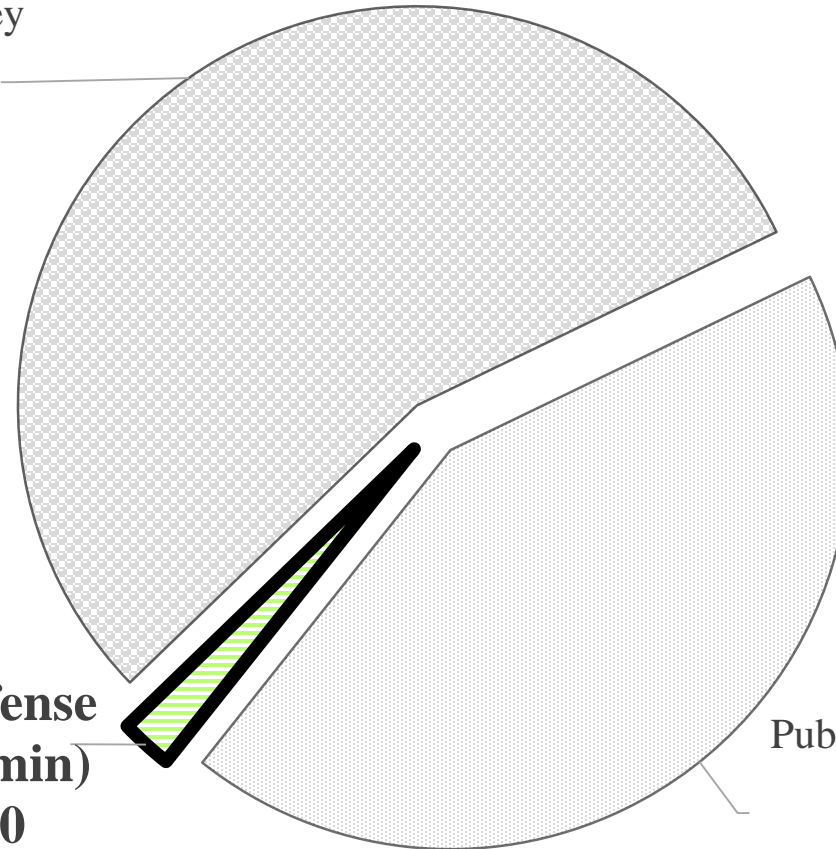


FY 2019-20 IDS Base Budget

Total Requirements by Fund

Indigent Persons Attorney
(PAC Fund)
\$73,652,908
55%

Indigent Defense
Service (Admin)
\$2,802,410
2%



Public Defender Service
\$57,280,353
43%

Total FY 2019-20
GF Budget:

\$133.7 m

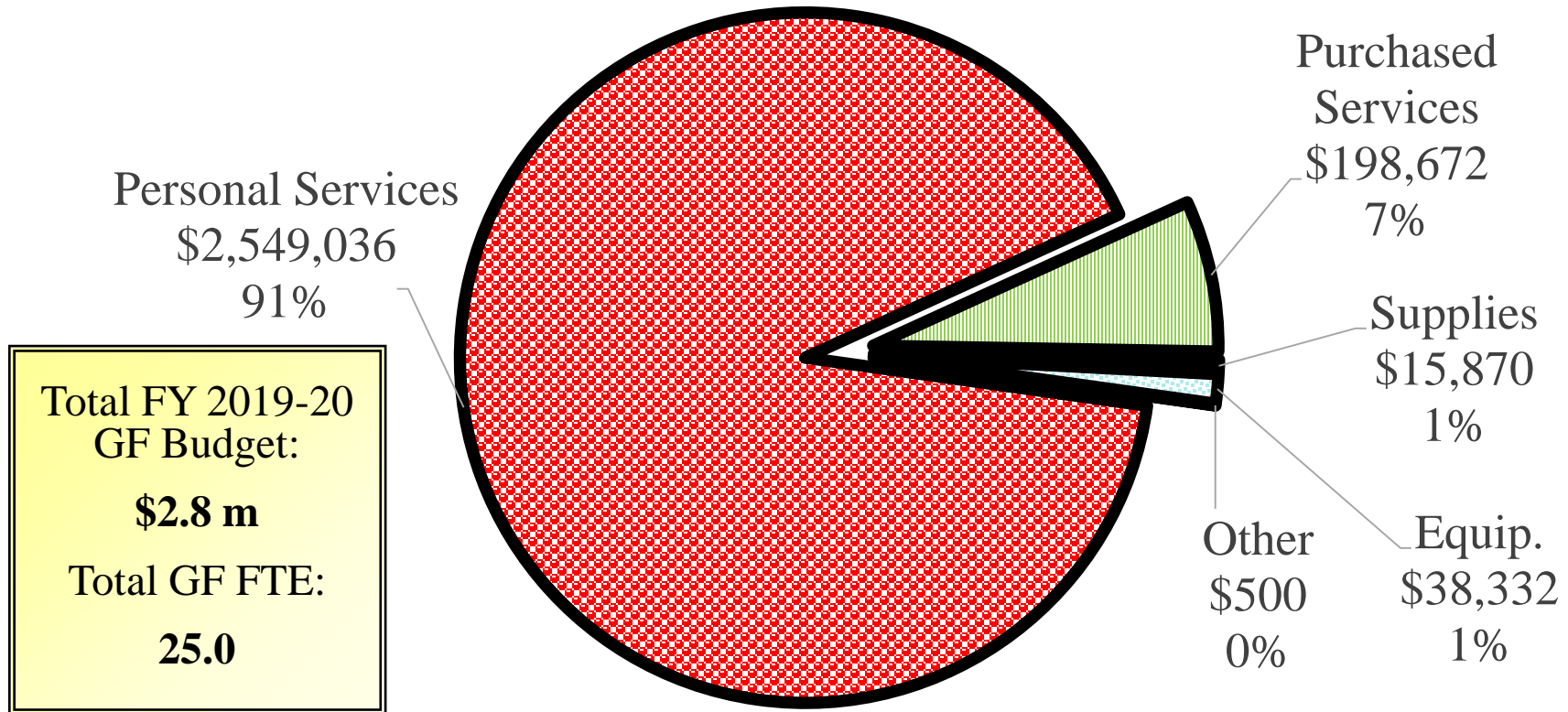
Total GF Full-
Time Equivalent
(FTE) Employees:

553.0

Source: Recommended Base Budget (Worksheet I) 02/16/19

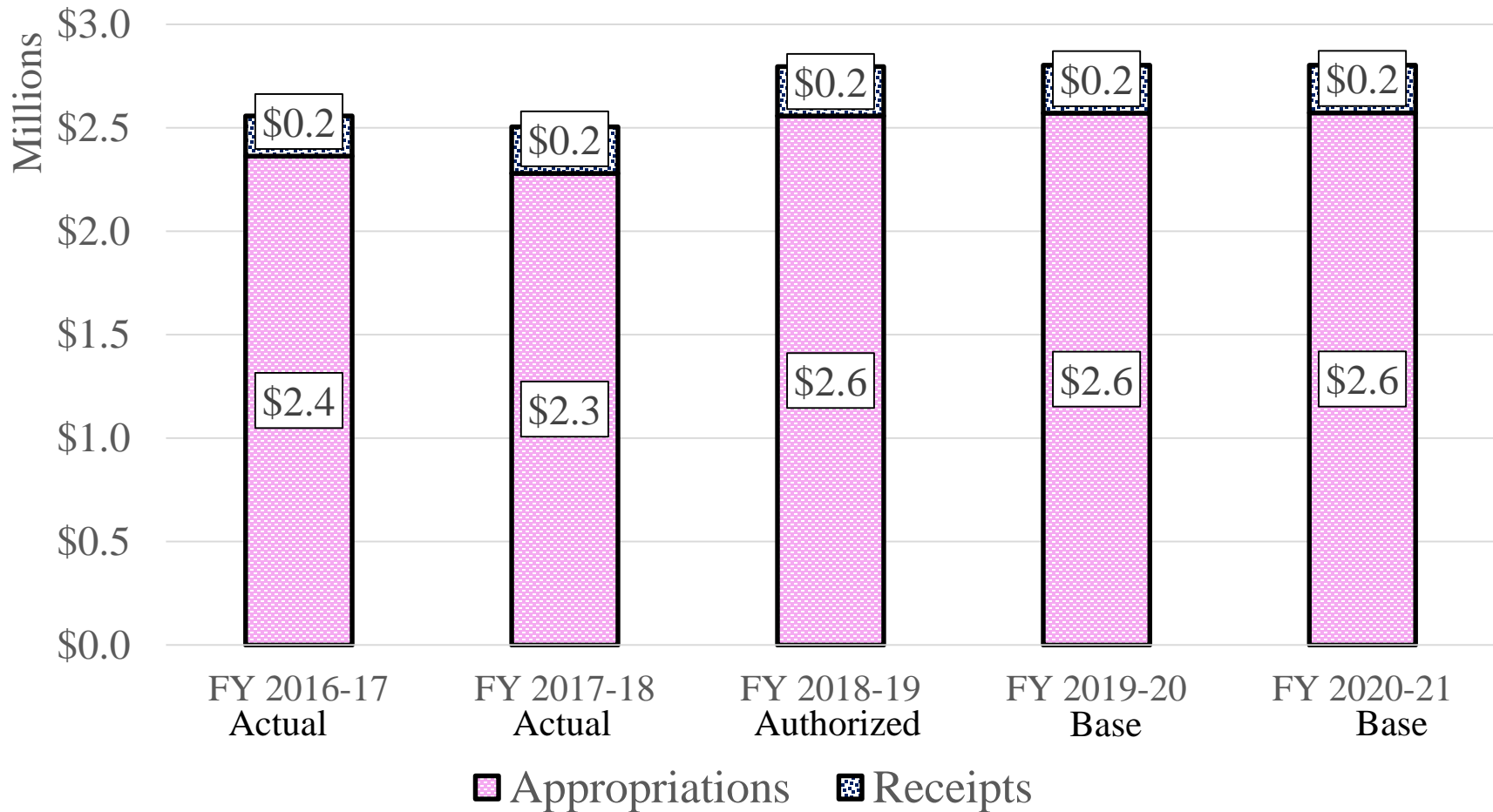
IDS Admin Base Budget, FY 2019-20

Total Requirements by Purpose



Source: Recommended Base Budget (Worksheet I) 02/16/19

IDS Admin Budget History



Source: NCAS, Recommended Base Budget (Worksheet I) 02/16/19

IDS Administration FTE

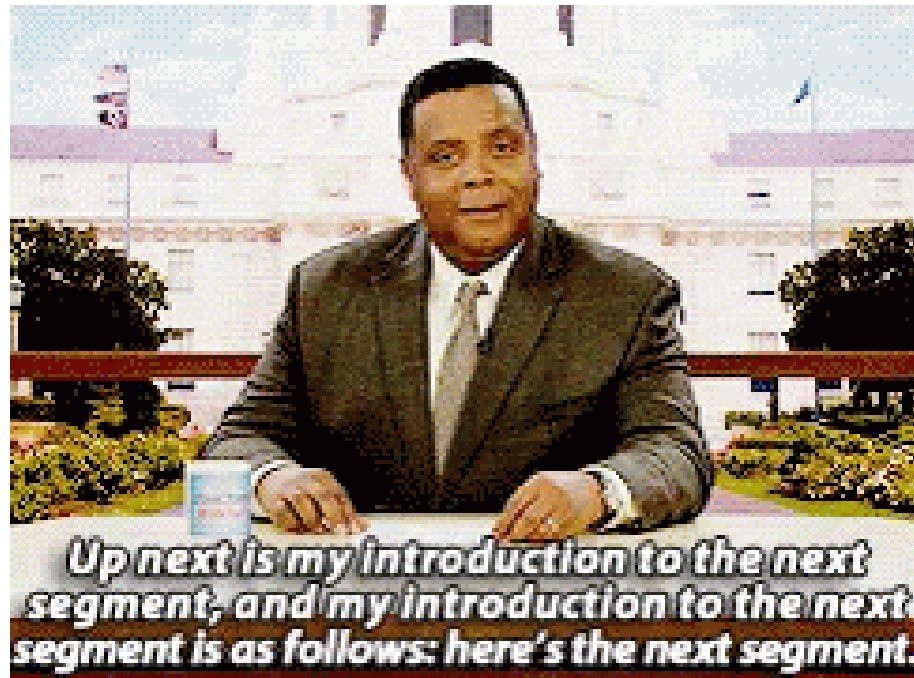
- Executive Director
- Assistant Director/General Counsel: 1 FTE
- Regional Defenders: 2 FTE
- Admin. Assistants: 2 FTE
- IT: 4 FTE
- Fiscal/Financial: 11.5 FTE
- Legal: 2 FTE
- Research/Admin: 4.5

Total FY 2019-20 GF
Budget:
\$2.8 m
Total GF FTE:
28.0
(3 receipt-supported)

Source: BEACON

IDS

Public Defenders

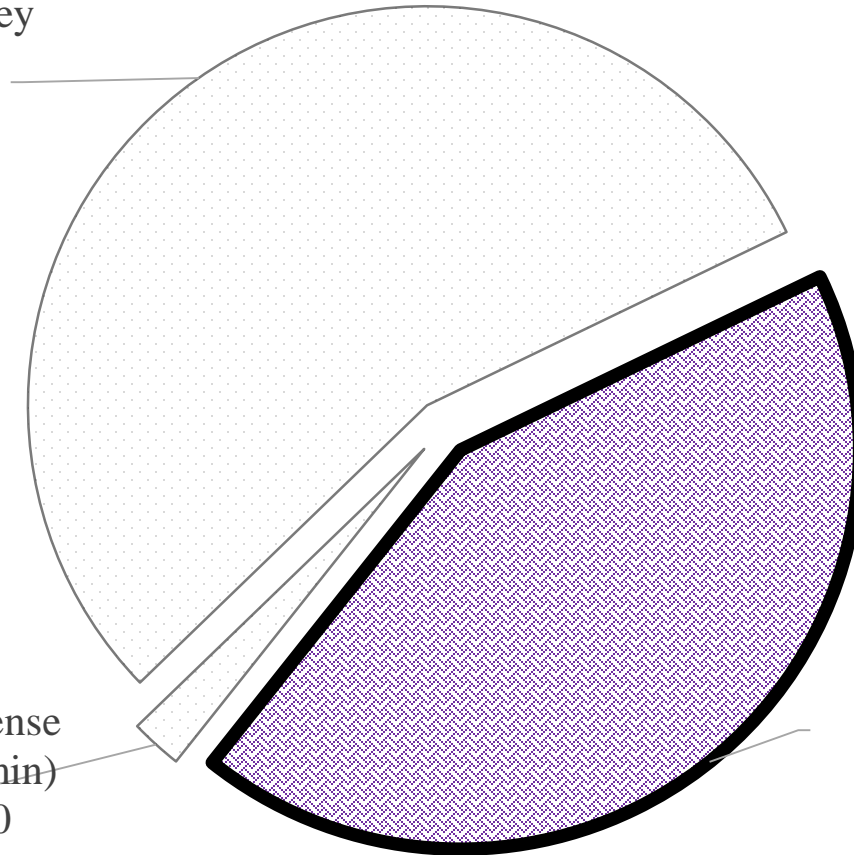


FY 2019-20 IDS Base Budget

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2%



Total FY 2019-20
GF Budget:

\$133.7 m

Total GF Full-
Time Equivalent
(FTE) Employees:

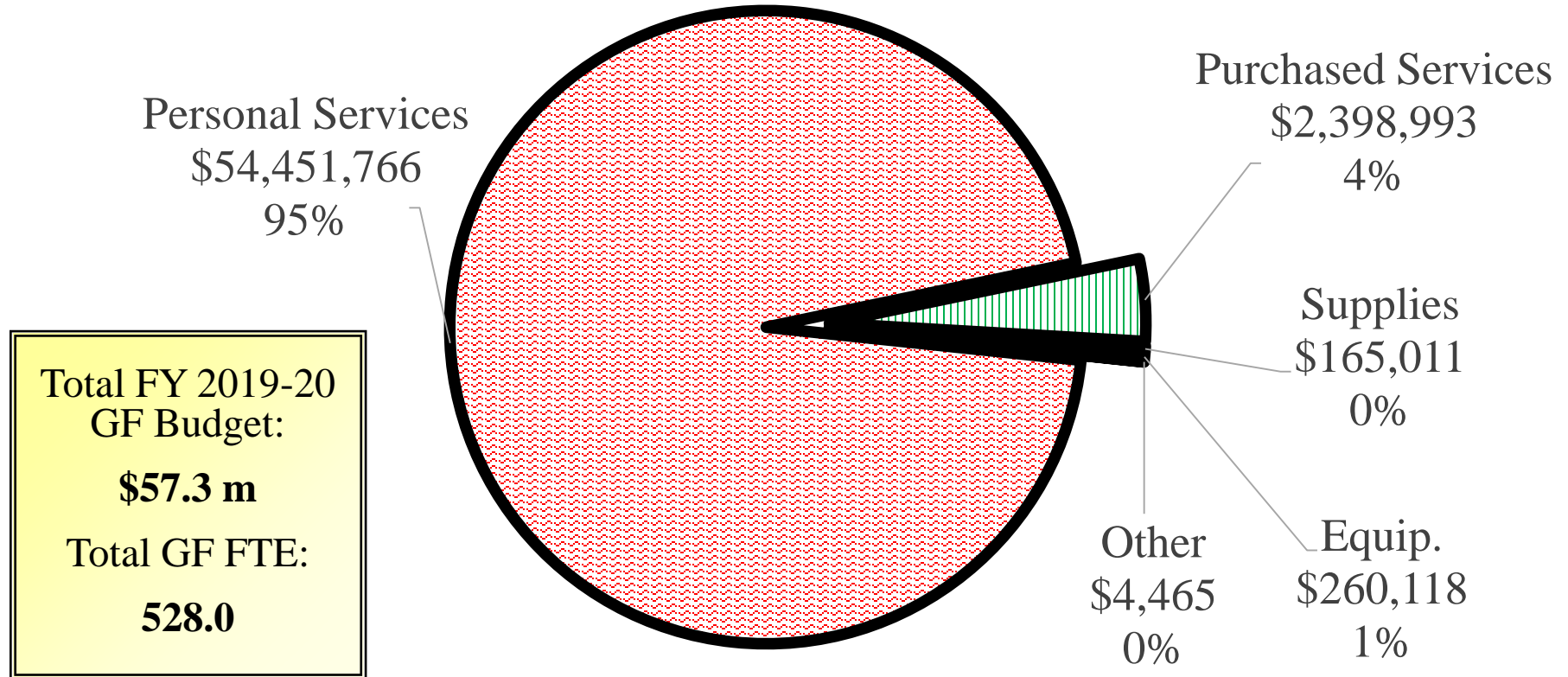
553.0

Public Defender
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Source: Recommended Base Budget (Worksheet I) 02/16/19

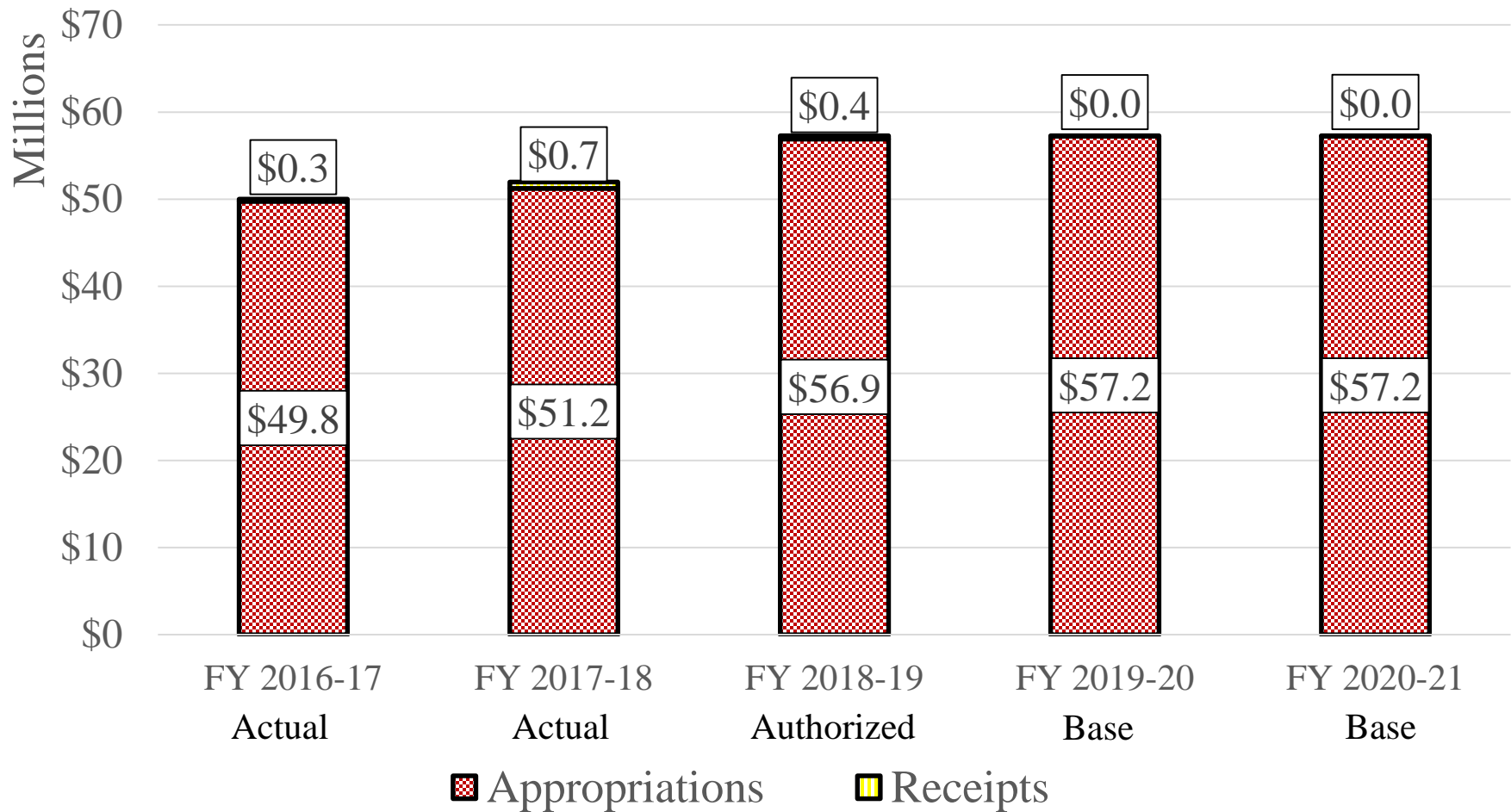
IDS PD Office Base Budget, FY 2019-20

Total Requirements by Purpose



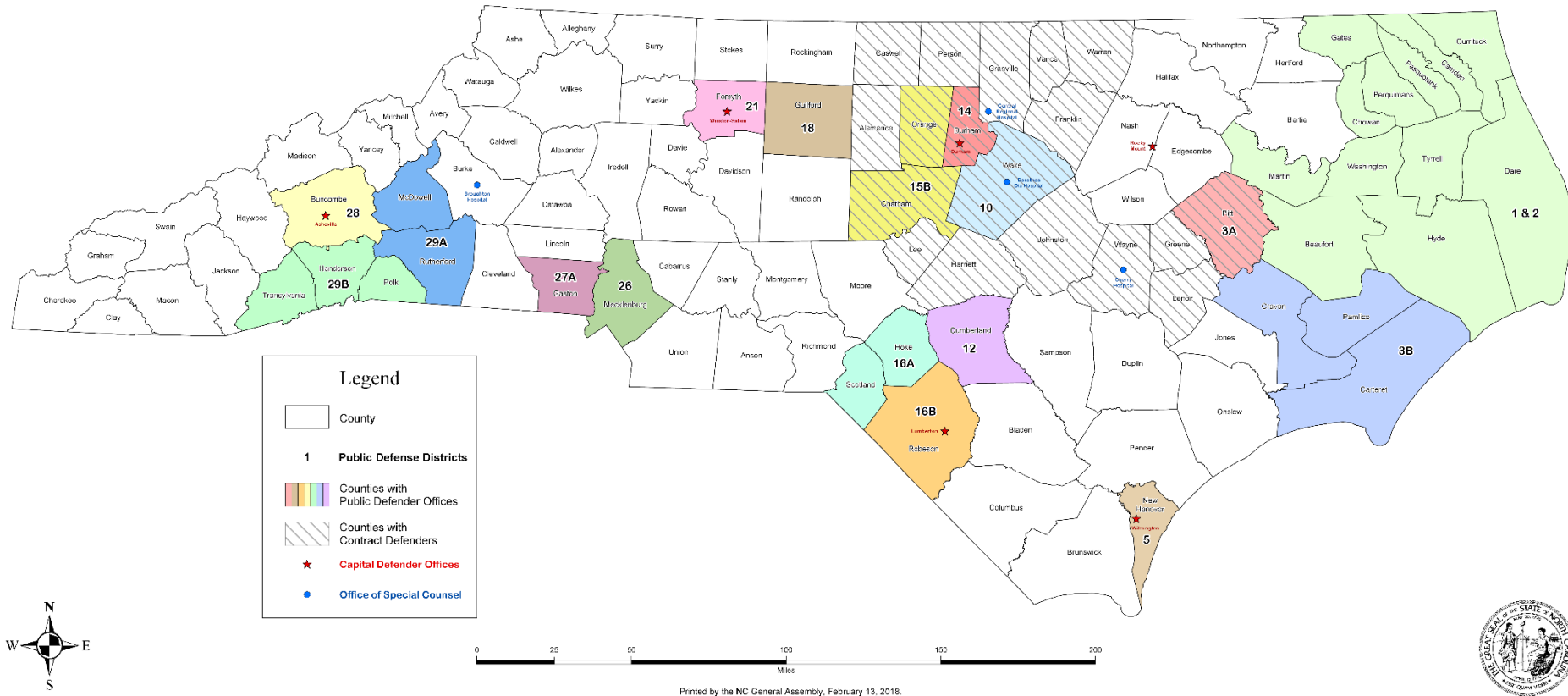
Source: Recommended Base Budget (Worksheet I) 02/16/19

IDS PD Office Budget History



Source: NCAS, Recommended Base Budget (Worksheet I) 02/16/19

Public Defense Districts (Effective 1/1/2019)



17 Public Defense Districts
4 Special Counsel Offices (Mental Health)
6 Capital Defender Offices

IDS Public Defender Fund Code FTE

- PD Offices: 464.88 FTE
- Appellate Defender Office: 25.0 FTE
 - 21 Attys, 4 Support
- Capital Defender Office: 29.0 FTE
 - 18 Attys, 5 Investigators, 6 Support
- Juvenile Defender: 3.0 FTE
- Parent Representation: 5.0 FTE
- Special Counsel: 16.5 FTE
 - 9 Attys, 7.5 Support

Total FY 2019-20
GF Budget:
\$57.3 m
Total GF FTE:
543.38
**(includes receipt-
supported)**

Source: BEACON

IDS Public Defender Offices FTE

- PD Offices: 464.88 FTE
 - Chief Public Defenders: 17 FTE
 - Assistant Public Defenders: 287 FTE
 - Legal Assistants: 89.88 FTE
 - Investigators: 47 FTE
 - Admin. Assistants: 20 FTE
 - Social Worker/Interpreter/Expert: 4 FTE

Total FY 2019-20
GF Budget:

\$57.3 m

Total GF FTE:

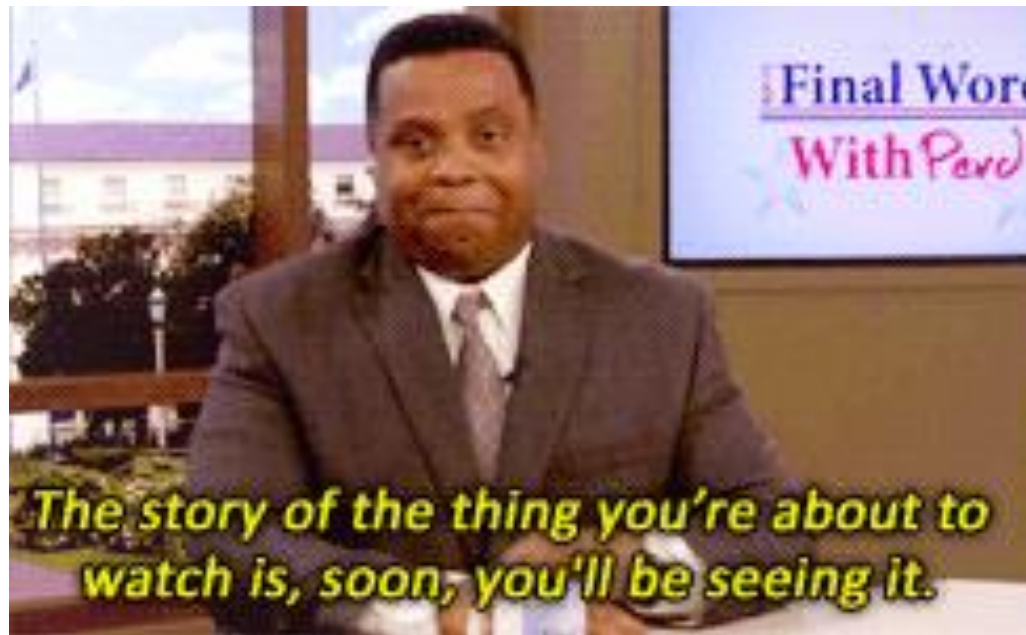
543.38

**(includes receipt-
supported)**

Source: BEACON

IDS

Private Appointed Counsel



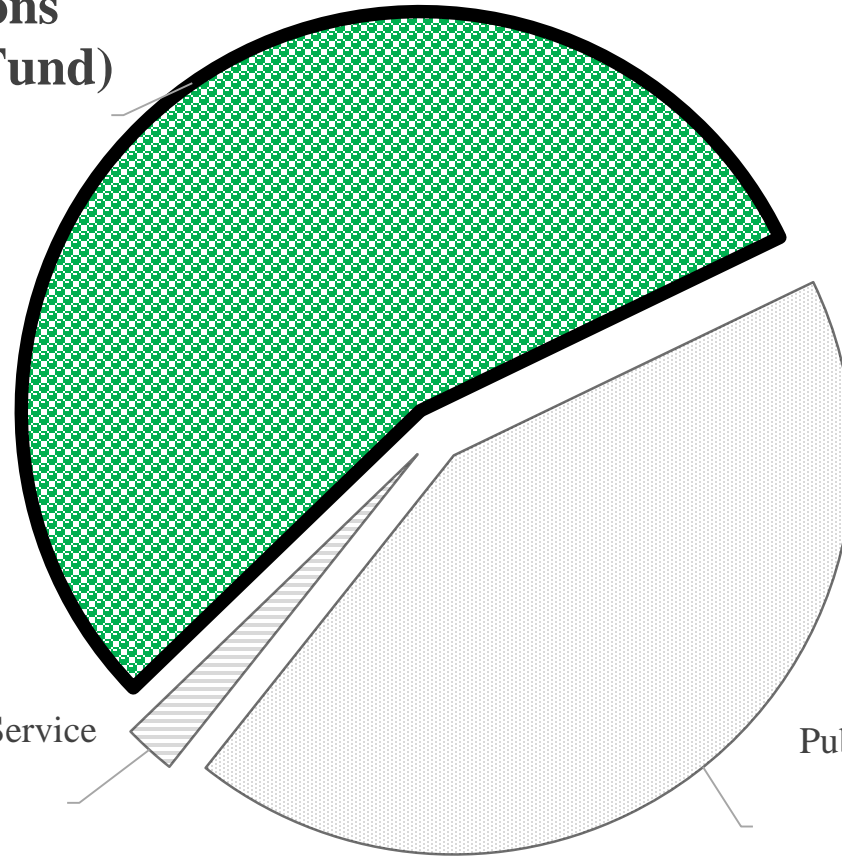
FY 2019-20 IDS Base Budget

Total Requirements by Fund

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Public Defender Service
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**Total FY 2019-20
GF Budget:**

\$133.7 m

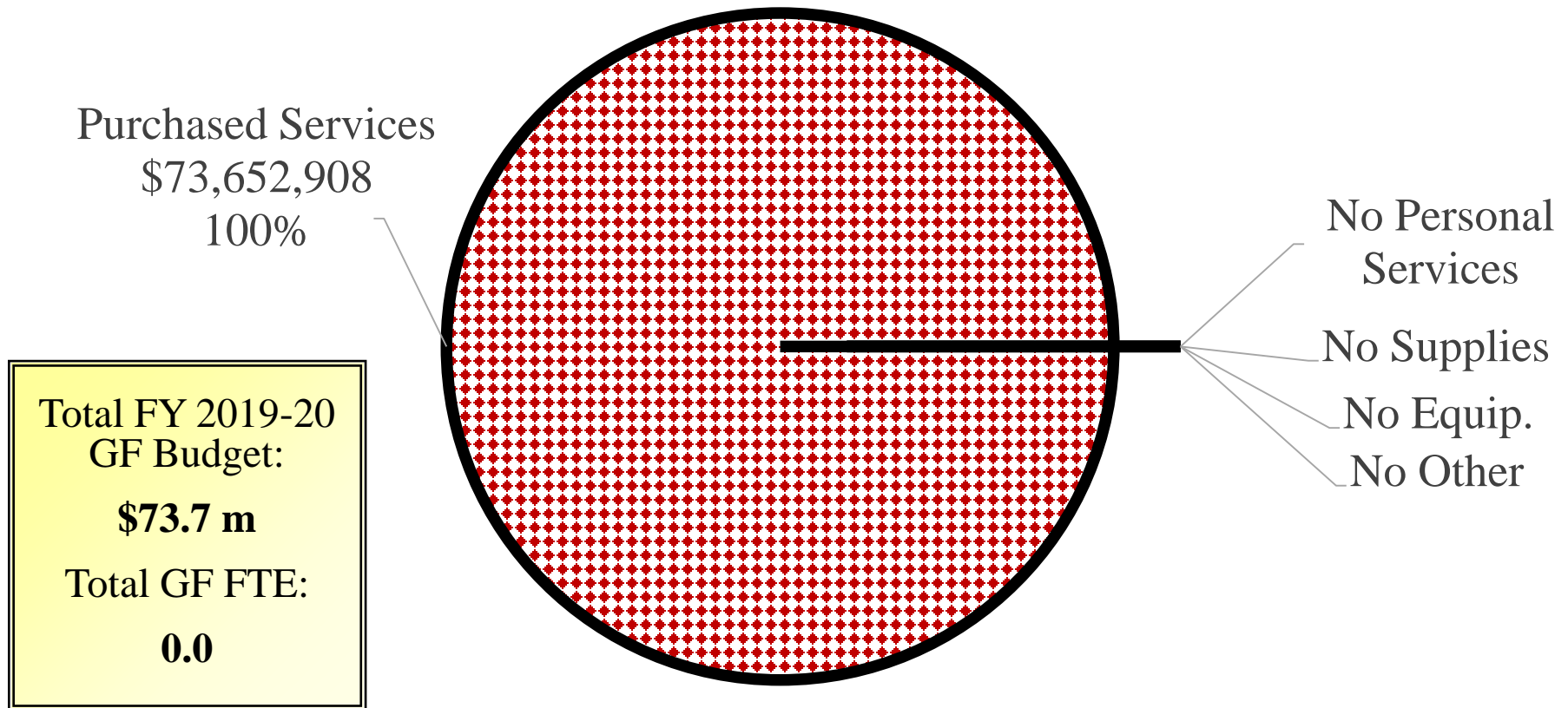
**Total GF Full-
Time Equivalent
(FTE) Employees:**

553.0

Source: Recommended Base Budget (Worksheet I) 02/16/19

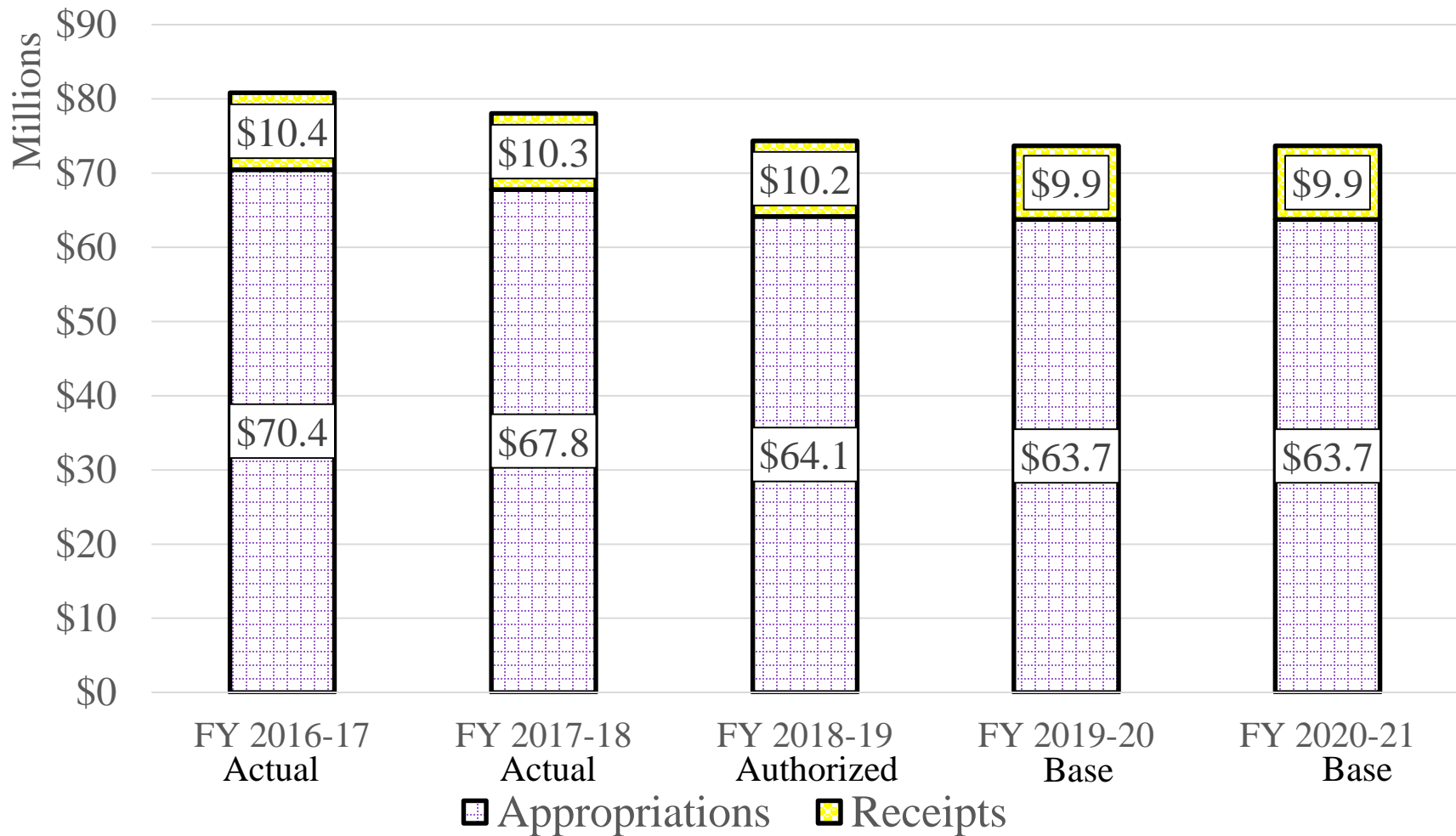
IDS PAC Base Budget, FY 2019-20

Total Requirements by Purpose



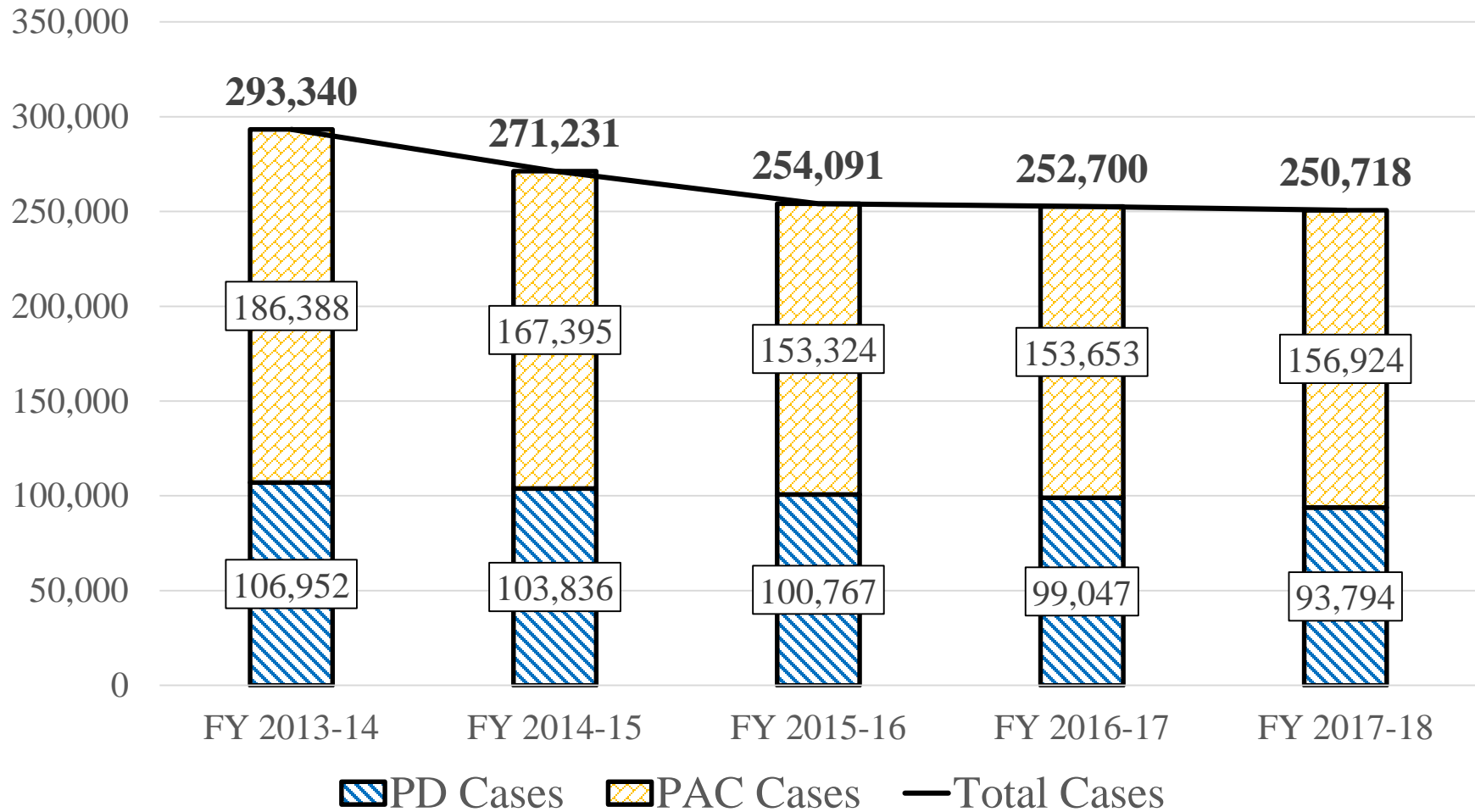
Source: Recommended Base Budget (Worksheet I) 02/16/19

IDS PAC Budget History



Source: NCAS, Recommended Base Budget (Worksheet I) 02/16/19

PAC v PD Cases



Source: IDS Annual Reports

IDS Recent Issues and Programs

- PAC Rates
- PD Districts
- PD Workload Formula
- Ongoing Projects



PAC Rates

Case Type	Current PAC Rates	2002 PAC Rates	2002 Rates Adjusted for Inflation	Ratio of Current PAC Rates to Inflation-Adjusted Rate
Capital Case (declared Capital at Rule 24 hearing)	\$90	\$95	\$133	68%
Potentially Capital Cases	\$85 (\$75 after declaration of non-capital)	\$85	\$119	71%
High-Level Felonies (Class A-D)	\$75	\$65	\$91	82%
Low-Level Felonies (Class E-I)	\$60	\$65	\$91	67%
All Other District Court Cases	\$55	\$65	\$91	61%

Source: IDS Annual Report

PAC Rates

- PAC Effective Pay Rate Study (forthcoming):
 - Average DC PAC rate minus overhead & FICA: \$15.62
 - 20% of PAC attorneys make effective rate of less than \$10/hour
 - 10% lose money
 - 10% have no health insurance
 - 40% are covered through spouse
 - 80% have no retirement

Source: IDS

PAC Rates

- Lower PAC Rates = Fewer attorneys able/willing to take PAC cases
- One consequence: felonies being defended by unprepared attorneys
 - Can lead to higher pretrial jail period: cost to locals
 - Can lead to longer time to disposition: cost to AOC
 - Can lead to higher incarceration period: cost to DPS
 - Can lead to more time for post-conviction appeals: cost to AOC, IDS, and DOJ

Source: IDS

PAC Rates: IDS Request

- IDS request:
\$17m over biennium to raise PAC rates by \$15/hour
- Governor's recommendation:
\$2.1m in FY 2019-20 and \$4.3m in FY 2020-21



Public Defender Districts

- New districts on 1/1/2019:
 - Rutherford & McDowell Counties
 - Expansion of Carteret into Craven & Pamlico
- Under current PAC rate structure, most PD Districts slightly more expensive than PAC
- PD Districts often cheaper if PAC rates increase
- IDS position: PD Districts are also more stable and provide better-quality defense

Public Defender Workload Formula

- In 2017, NCGA directed IDS to contract with National Center for State Courts for PD workload formulas
- Final Report: Feb 2019
 - Found significant needs in PD Offices for attorneys and investigators

	Current Staffing	Need	Difference
PD Office Attorneys	287.0	497.18	210.18
Investigators	43.0	138.81	95.81
Admin. Staff	102.0	112.0	10.0
TOTAL			315.99

Source: National Center for State Courts, Office of Indigent Defense Services Workload Assessment Final Report, February 2019

IDS Workload Request

- IDS estimates the total costs of workload formula recommendations up to \$30m
- IDS asking instead for flexibility to create PD positions
 - Commission had authority until 2014 to create positions to respond to caseload needs
- IDS is also asking for \$600k for outside investigators, experts, interpreters, etc.

Source: IDS

IDS: Recent & Ongoing Projects

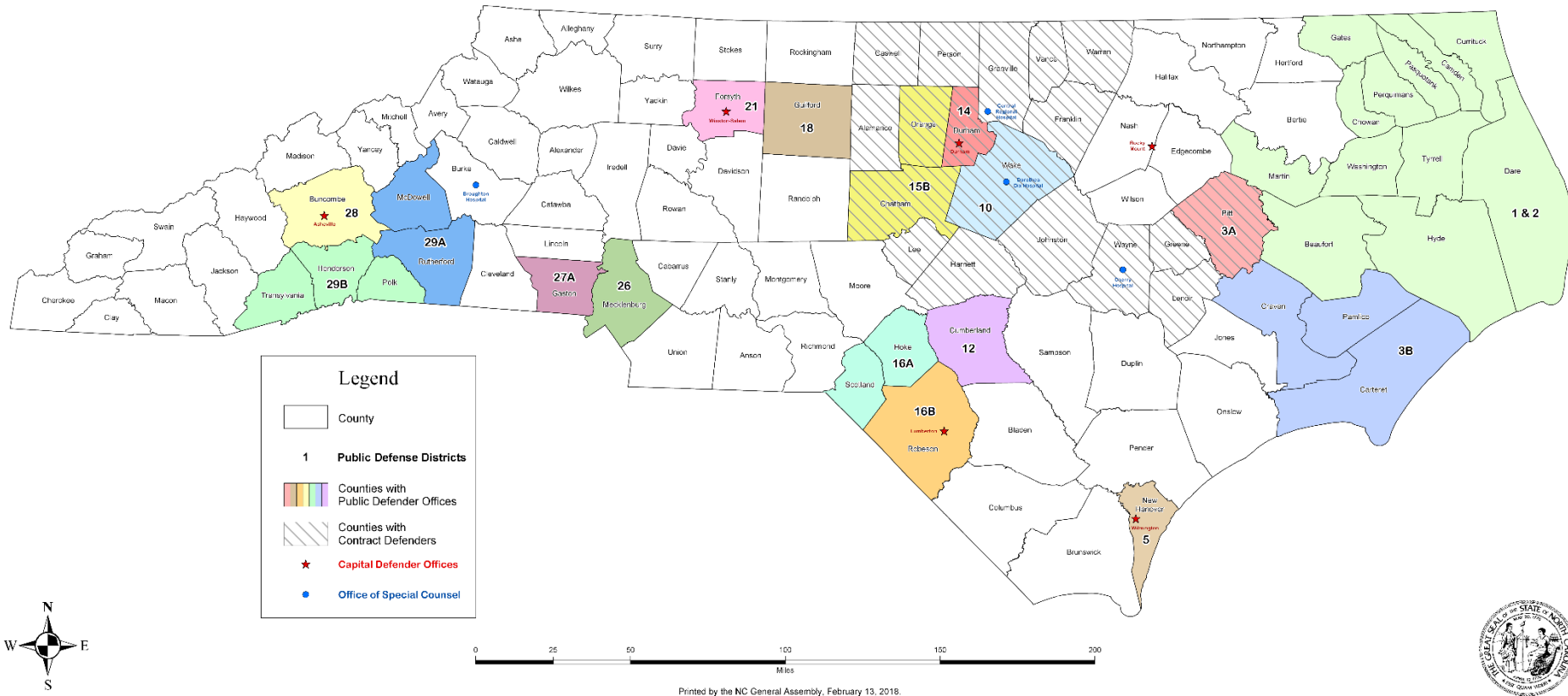
- Contract Defense
- Uniform Fee Schedule Project
- Uniform Qualification Standards
- Indigency Screening Project
- Pretrial Release Pilot

Contract Defense

- NCGA directed IDS in 2011 and 2013 to enter in contracts for legal defense
 - Contracts pay flat rate for caseload units
 - Covers non-capital criminal cases and per session courts, such as DTCs
- Overseen by Regional Defenders (currently 2 FTE)
- In FY 2017-18, accounted for 12.4% of PAC caseload
- IDS requesting 1 additional Regional Defender: \$159k
 - Funding request includes salary, benefits, operational costs, travel

Source: IDS Annual Report

Public Defense Districts (Effective 1/1/2019)



Contract Defense (shaded):
 District Court districts 3A, 8, 9, 10, 11, 14, 15A, 15B, part of 17A
 Issue: appointment authority with 16A?

Uniform Fee Schedule Project

- AOC & IDS directed in 2016 to pilot uniform fee system in 2 large, 2 medium, and 2 small counties
 - Large: Iredell and Davidson
 - Medium: Lincoln and Burke
 - Small: Watauga and Macon
- 2018: NCGA allowed opt-out:
 - Macon & Watauga opt out because attorneys have to travel too far and case volume too low

Source: IDS Annual Report

Indigency Screening Project

- 2017: AOC and IDS review statewide standards for determining indigency
- Recommendations:
 - IDS revise the Affidavit for Indigency
 - IDS develop bench card
 - Training/information for clerks regarding denial of counsel information in electronic record



Source: IDS Annual Report

Uniform Qualification Standards

- IDS charged with standards for appointed counsel in non-capital criminal and non-criminal cases
- IDS Model Appointment Plan provided previous standards for non-PD districts (issued 2008)
- IDS working with local actors to develop qualification and performance standards for defender districts
- Will complete by July 1, 2019
 - Expect current opt-in provision to become opt-out

Source: IDS Annual Report

Pretrial Release Pilot in District 30B

- Run by local court officials (Judge Letts) along with SOG Professor Jessica Smith and IDS
- Haywood and Jackson counties: No PD office
- Reduce the time spent in jail by low-risk, low-level defendants who cannot pay bond
- Increases use of citations rather than arrest warrants
- Uses a flow-chart for magistrates to increase unsecured bonds
- Contracts with counsel to provide quick and meaningful representation at first appearance

Source: IDS

Pretrial Release Pilot in District 30B

- IDS contracted with two lawyers in Haywood County
 - Represent clients on first appearance
 - Cover misdemeanors & H and I felonies
 - Receive an email from jail with list of eligible clients
 - Morning: meet clients and conduct interviews
 - Lunch: access to prosecutor's information on the client's record
 - Afternoon: argue for release during a first appearance

Source: IDS

IDS FTE Request: RTA

- JJAC Request (RTA)
 - 1 Resource Juvenile Defender: ~\$122k
- Governor's Recommendation
 - 1 Resource Juvenile Defender: ~\$88k
(starting 12/1/2019)

Source: JJAC Report, Governor's Recommended Budget

Prisoner Legal Services

- Nonprofit contracted to provide inmate access to court
 - Screens Motions for Appropriate Relief
 - Reduces frivolous *pro se* filings
- In FY 2013-14, reduced budget: \$890,000
 - Had to reduce staff for identifying sentencing errors/unapplied jail credit (cost to DPS)
- Remaining budget: \$2.3m

Source: IDS Annual Report



